

MINUTES
KENTUCKY BOARD OF PHARMACY
Frankfort, Kentucky
October 9, 2002

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the Board office, 23 Millcreek Park, in Frankfort, Kentucky. President Foster called the meeting to order at 9:05 a.m.

Members present: Thomas S. Foster, Becky M. Cooper, Tim Armstrong, Patricia Thornbury, Georgina Kindall-Jones, and Joe Carr. Staff present: Michael A. Moné, Executive Director; Jeffrey L. Osman, Pharmacy Inspections and Investigations Coordinator; Maxine Snively, N. Katie Busroe, and Philip C. Losch, Pharmacy and Drug Inspectors; Cheryl Lalonde-Mooney, Assistant Attorney General and Board Counsel. Brian Fingerson, Kentucky Pharmacist Recovery Network Program; Bob Barnett, APSC; Nancy Horn, UK/APSC Post-Doc Fellow; Danna Droz, Drug Control; Mike Mayes, KPhA; Jan Gould, Kentucky Retail Federation; Jeff Jackson, Meijer; J.D. Hammond, Whitney Galloway, and Betsy Keating, University of Kentucky College of Pharmacy Student Interns. Melody Curtis, Court Reporter, recorded the meeting.

APPEARANCES: **James Catron.** Mr. Catron appeared to petition for reinstatement of his pharmacist=s license. Mr. Catron was placed under oath by Ms. Curtis, Court Reporter. Mr. Catron gave a short overview of the cause leading to the loss of his pharmacist=s license. Dr. Foster and Mr. Moné reviewed the recommendation of the Impaired Pharmacist Committee (IPC) for reinstatement of license. Ms. Thornbury moved to reinstate with an Order of Reinstatement with stipulations as follows: employment of no more than 40 hours per week or no more than 80 hours in a two-week period; provide a copy of Agreed Order to all employers; sign an aftercare contract with IPC; come before IPC 6 months after reinstatement and periodically during the 5 years of probation, the frequency to be determined by IPC; submission of a signed release for medical records; provide the Board a written monthly self performance evaluation; monthly random urine or blood screens; not ingest any mood altering substance whether legend or nonlegend medication; not ingest alcoholic beverages; notification to the Board of all legend and nonlegend drugs taken within 10 days; shall keep Board informed of place of employment; Board or Board President=s approval of all employers; Board shall conduct semi-annual inspections at all locations of employment in Kentucky, the costs to be paid by Mr. Catron; shall obtain all prescriptions and those of his family at a pharmacy designated in writing; shall not dispense any drugs for himself or his family members; attendance at Southeastern PRN or the Utah School on Alcoholism and other Drug Dependencies within one year; and attend AA or NA meetings no less than three times per week and provide quarterly written attendance reports. Order on Reinstatement to be drafted and forwarded to Mr. Catron for his signature and upon its return to be signed by President Foster. Mr. Moné is to coordinate this Order of Reinstatement with the Tennessee Board of Pharmacy pending the outcome of Tennessee Board of Pharmacy=s decision as to Mr. Catron=s Tennessee license. Mr. Armstrong seconded and the motion passed unanimously.

Rick Matthews. Mr. Matthews appeared to petition for reinstatement of his pharmacist=s license.

Mr. Matthews was placed under oath by Ms. Curtis, Court Reporter. Mr. Matthews gave a short overview of the cause leading to the loss of his pharmacist=s license. Dr. Foster and Mr. Moné reviewed the recommendation of the Impaired Pharmacist Committee (IPC) for reinstatement of license. Mr. Carr moved to reinstate with an Order of Reinstatement with stipulations as follows: employment of no more than 40 hours per week or no more than 80 hours in a two-week period; provide a copy of Agreed Order to all employers; sign an aftercare contract with IPC; come before IPC 6 months after reinstatement and periodically during the 5 years of probation, the frequency to be determined by IPC; submission of a signed release for medical records; provide the Board a written monthly self performance evaluation; monthly random urine or blood screens; not ingest any mood altering substance whether legend or nonlegend medication; not ingest alcoholic beverages; notification to the Board of all legend and nonlegend drugs taken within 10 days; shall keep Board informed of place of employment; Board or Board President=s approval of all employers; Board shall conduct semi-annual inspections at all locations of employment, the costs to be paid by Mr. Matthews; shall obtain all prescriptions and those of his family at a pharmacy designated in writing; shall not dispense any drugs for himself or his family members; attendance at Southeastern PRN or the Utah School on Alcoholism and other Drug Dependencies within one year; and attend AA or NA meetings no less than three times per week and provide quarterly written attendance reports. Order on Reinstatement to be drafted and forwarded to Mr. Matthews for his signature and upon its return to be signed by President Foster. Ms. Cooper seconded and the motion passed unanimously.

MINUTES: On motion by Ms. Thornbury, seconded by Mr. Carr the minutes of September 11, 2002 Board Meeting were adopted.

On motion by Ms. Jones, seconded by Mr. Carr the minutes of the September 24, 2002 Committee Meeting were adopted.

On motion by Ms. Thornbury, seconded by Ms. Jones the minutes of the September 24, 2002 Special Board Meeting were adopted.

INTERAGENCY: **Drug Control.** Danna Droz, Branch Manager of Drug Control, asked the Board of Pharmacy to help disseminate the information that law enforcement has asked that pharmacists document on the back of a prescription if the prescription is altered or forged. If there is documentation by the pharmacist on the front of the prescription, it is more difficult to prove the patient altered or forged the prescription in a court of law.

BOARD REPORTS: **President.** President Foster gave a brief update that the data from the July 2002 Board Exams is in the process of being analyzed and statistics are being prepared. He asked that the Board give consideration to the support that is needed to maintain the Board website and that the website address be printed on the Board letterhead.

Board Members. Ms. Thornbury gave a brief overview of the Advanced Registered Nurse Practitioner (ARNP) meeting that she and Mr. Moné attended. Ms. Thornbury mentioned a paper she received from Harvard on crisis management. She is to bring more information to the December Board Meeting.

Board Executive Director. Mr. Carr moved to accept the 2003 Board calender. Ms. Jones seconded and the motion passed unanimously.

Mr. Carr moved to enter into a Final Order of Revocation with Ruby Nelson since she failed to comply with the Agreed Order by not obtaining a mental and physical evaluation. Mr. Armstrong seconded and the motion passed unanimously.

Ms. Thornbury moved to authorize Mr. Moné to sign a letter, along with the Executive Directors of the Kentucky Board of Medical Licensure and the Kentucky Board of Nursing, to be sent to the Insurance Commissioner of Kentucky to set up a meeting regarding the recognition of ARNP=s as prescriber by insurance companies. Mr. Carr seconded and the motion passed unanimously.

Mr. Carr moved to authorized Mr. Moné and Ms. Lalonde-Mooney to enter into a Memorandum of Understanding, but not an agreement, regarding House Bill 296, the repayment of student loans, and the burden of determining which licensees have defaulted. The negotiations are to be brought back to the Board. Ms. Jones seconded and the motion passed unanimously.

Ms. Thornbury moved that Mr. Moné and Ms. Jones take the following issues to the Leadership Council Meeting on October 23, 2002 and that these issues be posted on the front page of the Board=s website to entertain questions:

1. Introduce the concept of pharmaceutical diagnosis. As of now, the definition of the practice of pharmacy is task oriented not intellectually oriented. Pharmaceutical diagnosis is based on the conception that the prescribed drug therapy is appropriate for that patient. Thus, the end result is not a product, but is intellectual.
2. Request to eliminate the word Aregistered≡ from being associated with pharmacist, as in registered pharmacist.
3. Build standards of practice mediated by the profession not the Board. Use the nursing model where the Board adopts the standard of practice from the associations.
4. Create a standard of practice for compounding, such as possibly using an examination. This would help resolve the public concern regarding compounding by pharmacists.
5. Discuss registering pharmacy technicians and the consequences of doing so.

Mr. Carr seconded and the motion passed unanimously.

Mr. Moné announced that Governor Patton reappointed Ms. Jones and Ms. Cooper to the Board of Pharmacy. Mr. Mark Edwards was appointed as a new Board Member. All three appointments are from January 2003 through December 2006.

Board Staff. Dr. Osman reminded the Board members that Board Portraits will be taken at the December Board Meeting.

Impaired Pharmacists Committee. Incoming New Board Members will attend an IPC meeting.

CURRENT/PENDING CASES: Mr. Carr moved to reject the resolutions proposed by attorneys representing two pharmacists that were issued Emergency Suspension Orders in September 2002, cases 02-123B and 02-123C, and move to a hearing. Mr. Armstrong seconded and the motion

passed unanimously.

Mr. Armstrong moved to use a panel of the Board consisting of Mr. Carr, Ms. Thornbury, Ms. Cooper, and Ms. Jones with a hearing officer at the Hearing to take place on November 12 and 13, 2002 at the Kentucky Board of Pharmacy Board Office in Frankfort, Kentucky. Ms. Thornbury seconded and the motion passed unanimously.

Ms. Jones moved to remove the previous motion to make the Hearing a panel hearing. Ms. Thornbury seconded and the motion passed unanimously.

Ms. Jones moved to have a quorum of the Board present at the Hearing with a hearing officer, scheduled to begin at 9 a.m. on November 12 and end by noon on November 14, 2002 at the Kentucky Board of Pharmacy Board Office in Frankfort, Kentucky. Mr. Carr seconded and the motion passed unanimously.

CORRESPONDENCE: **Morris D. Lloyd - Family Health Centers.** Board reviewed correspondence regarding the request to install a double-locked prescription drop-off box near the pharmacy window to be used for after pharmacy hours. After a brief discussion, Mr. Carr moved that Mr. Moné respond that the pharmacy must comply with 201 KAR 2:100 Section 3. Mr. Armstrong seconded and the motion passed unanimously.

Gary S. Harris - Tricare Pharmacy Network. The Board reviewed correspondence regarding Tricare Pharmacy Network's request to share equipment for two pharmacies, Tricare Pharmacy and BET Pharma, which are under one roof. After a brief discussion, Mr. Armstrong moved to approve the request. Ms. Thornbury seconded and the motion passed unanimously.

Stephen W. Atwood - BET Laboratories. The Board reviewed correspondence regarding BET Laboratories request that they are using levothyroxine sodium products as a feed supplement and not a drug, therefore, BET should not have to be licensed by the Board as a wholesaler. After a brief discussion, Ms. Thornbury moved that BET Laboratories must be licensed by the Board of Pharmacy as a wholesaler. Ms. Jones seconded and the motion passed unanimously.

Gary S. Harris - BET Pharma. The Board reviewed correspondence regarding the request for BET Pharma to operate as a pharmacy which will be compounding specialized, patient specific prescriptions, not manufacturing drug product in a laboratory setting. Mr. Carr moved to issue a pharmacy permit to BET Pharma, absent any further information and Mr. Moné to send a letter stating that the Board expressed concern about the distinction between compounding and manufacturing and that product shall be stored at the registered location with a copy of the letter being forwarded to the Food and Drug Administration. Ms. Cooper seconded and the motion passed unanimously.

Doug Staton - EXP Pharmaceutical Services Corporation. The Board reviewed correspondence from EXP Pharmaceutical Services Corporation outlining the details that EXP can offer to nursing facilities in Kentucky to insure proper drug waste disposal. After a brief discussion, it appeared that there is nothing in the statutes to preclude this service. Mr. Moné to respond to Doug Staton.

LEGISLATION/REGULATIONS: Ms. Thornbury moved for Mr. Moné to move forward with the Notice of Intent regarding 201 KAR 2:280 Prescription Dispensing for Formulary Compliance, 201 KAR 2:270 License Disciplinary Action Expungement, and 201 KAR 2:025 License Reinstatement. Mr. Carr seconded and the motion passed unanimously.

NEW BUSINESS: Ms. Thornbury moved that the Board form a committee regarding the history of the Board and that the Board reimburse Ms. Gloria Doughty for travel and the cost of audio tapes in compiling the history of the Board. The motion died due to the lack of a second.

Mr. Armstrong moved to nominate Mr. Carr for President-Elect of Kentucky Board of Pharmacy in 2003. Ms. Jones seconded and the motion passed unanimously. Mr. Carr is to attend the Southeast PRN meeting November 8, 9, and 10, 2002.

CONTINUING EDUCATION: Ms. Jones moved to accept the continuing education programs 02-68 through 02-75 and 02-77 through 02-78 as recommended and to deny 02-076. Mr. Armstrong seconded and the motion passed unanimously.

ADJOURNMENT: On motion by Ms. Jones, seconded by Ms. Thornbury and passed unanimously, President Foster adjourned the meeting at 1:04 p.m. The next Board meeting is scheduled to begin at 9:00 a.m. on December 4, 2002.

Michael A. Moné, Executive Director